

DETAILED ACTION

Election/Restrictions

Claims 9-11 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claim 12, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, Claim 12 is hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 3/5/2009 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Allowable Subject Matter

The double patenting rejection over copending application 11/579,221 has been withdrawn, as upon further consideration there is no suggestion of the cyclometallated product.

Claims 9-12 are allowed.

The following is an examiner's statement of reasons for allowance: None of the prior art fairly teach or suggest the instantly claimed cyclometallated phosphoramidite iridium catalyst. While the prior art does teach the specific precursors and the specific ligands under conditions that could form the instantly claimed catalyst, but not in combination together, the prior art is either directed towards ruthenium, which does not form the cyclometallated product, or to ligands that do not read on the instant invention. Had the skilled artisan been motivated to combine the specific ligands with the specific precursors under conditions that would form the cyclometallated product, a standard coordination compound would be expected, and not the cyclometallated product as claimed. As such the instantly claimed catalyst is seen as a new class of iridium phosphoramidite compounds, and as such the instantly claimed catalyst is seen as novel and unobvious over the prior art. Based on the catalyst being patentable, and the method claim 12 requiring all of the limitations of the independent claim 9, claim 12 is also seen as patentable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Art Unit: 1793

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES E. MCDONOUGH whose telephone number is (571)272-6398. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.A. LORENZO/
Supervisory Patent Examiner, Art Unit 1793

/James E McDonough/
Examiner, Art Unit 1793